

Senate File 400 - Introduced

SENATE FILE _____
BY DOTZLER

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the responsibility for the regulation of
2 certain health-related facilities.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2050SS 83
5 pf/nh/5

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1 1 Section 1. Section 10A.104, subsection 9, Code 2009, is
2 amended to read as follows:
3 9. Administer and enforce this chapter, and chapters 99B,
4 ~~135B, 135C, 135H, 135J, 137C, 137D, and 137F.~~
5 Sec. 2. Section 10A.104, Code 2009, is amended by adding
6 the following new subsection:
7 NEW SUBSECTION. 16. Inspect child foster care facilities
8 and private institutions for the care of dependent, neglected,
9 and delinquent children.
10 Sec. 3. Section 10A.106, subsection 1, paragraph c, Code
11 2009, is amended by striking the paragraph.
12 Sec. 4. Section 10A.106, subsection 2, Code 2009, is
13 amended to read as follows:
14 2. The allocation of departmental duties to the divisions
15 of the department in sections 10A.402, ~~10A.702,~~ and 10A.801
16 does not prohibit the director from reallocating departmental
17 duties within the department.
18 Sec. 5. Section 96.19, subsection 25, Code 2009, is
19 amended to read as follows:
20 25. "Hospital" means an institution which has been
21 licensed, certified, or approved by the department of
22 ~~inspections and appeals~~ public health as a hospital.
23 Sec. 6. Section 135.63, subsection 2, paragraph g,
24 subparagraph (1), subparagraph division (a), Code 2009, is
25 amended to read as follows:
26 (a) The institutional health facility reports to the
27 department the number and type of beds reduced on a form
28 prescribed by the department at least thirty days before the
29 reduction. In the case of a health care facility, the new bed
30 total must be consistent with the number of licensed beds at
31 the facility. In the case of a hospital, the number of beds
32 must be consistent with bed totals reported to the department
33 ~~of inspections and appeals~~ for purposes of licensure and
34 certification.
35 Sec. 7. NEW SECTION. 135.90 HEALTH FACILITIES DIVISION.
1 1. As used in this section, unless the context otherwise
2 requires:
3 a. "Administrator" means the person coordinating the
4 administration of the health facilities division.
5 b. "Division" means the health facilities division of the
6 department.
7 2. The administrator shall coordinate the division's
8 conduct of various inspections and investigations as otherwise
9 provided by law including but not limited to all of the
10 following:
11 a. Investigations relative to the standards and practices
12 of hospitals, hospices, health care facilities, assisted
13 living programs, adult day services, and elder group homes.
14 b. Inspections and other licensing or certification
15 procedures relative to hospitals, hospices, health care
16 facilities, assisted living programs, adult day services, and
17 elder group homes. The division is designated as the sole
18 licensing and certifying authority for these programs and

2 19 facilities.
2 20 c. Inspections relative to hospital, health care facility,
2 21 assisted living program, adult day services, and elder group
2 22 home construction projects.

2 23 Sec. 8. Section 135.107, subsection 1, unnumbered
2 24 paragraph 1, Code 2009, is amended to read as follows:

2 25 The center for rural health and primary care is established
2 26 within the department. There is established an advisory
2 27 committee to the center for rural health and primary care
2 28 consisting of one representative, approved by the respective
2 29 agency, of each of the following agencies: the department of
2 30 agriculture and land stewardship, the Iowa department of
2 31 public health, ~~the department of inspections and appeals~~, the
2 32 national institute for rural health policy, the rural health
2 33 resource center, the institute of agricultural medicine and
2 34 occupational health, and the Iowa state association of
2 35 counties. The governor shall appoint two representatives of
3 1 consumer groups active in rural health issues and a
3 2 representative of each of two farm organizations active within
3 3 the state, a representative of an agricultural business in the
3 4 state, a practicing rural family physician, a practicing rural
3 5 physician assistant, a practicing rural advanced registered
3 6 nurse practitioner, and a rural health practitioner who is not
3 7 a physician, physician assistant, or advanced registered nurse
3 8 practitioner, as members of the advisory committee. The
3 9 advisory committee shall also include as members two state
3 10 representatives, one appointed by the speaker of the house of
3 11 representatives and one by the minority leader of the house,
3 12 and two state senators, one appointed by the majority leader
3 13 of the senate and one by the minority leader of the senate.

3 14 Sec. 9. Section 135B.1, subsection 1, Code 2009, is
3 15 amended to read as follows:

3 16 1. "Department" means the department of ~~inspections and~~
3 17 ~~appeals~~ public health.

3 18 Sec. 10. Section 135C.1, subsections 2, 4, and 17, Code
3 19 2009, are amended to read as follows:

3 20 2. "Department" means the department of ~~inspections and~~
3 21 ~~appeals~~ public health.

3 22 4. "Director" means the director of ~~the department of~~
3 23 ~~inspections and appeals~~ public health, or the director's
3 24 designee.

3 25 17. "Residential care facility" means any institution,
3 26 place, building, or agency providing for a period exceeding
3 27 twenty-four consecutive hours accommodation, board, personal
3 28 assistance and other essential daily living activities to
3 29 three or more individuals, not related to the administrator or
3 30 owner thereof within the third degree of consanguinity, who by
3 31 reason of illness, disease, or physical or mental infirmity
3 32 are unable to sufficiently or properly care for themselves but
3 33 who do not require the services of a registered or licensed
3 34 practical nurse except on an emergency basis or who by reason
3 35 of illness, disease, or physical or mental infirmity are
4 1 unable to sufficiently or properly care for themselves but who
4 2 do not require the services of a registered or licensed
4 3 practical nurse except on an emergency basis if home and
4 4 community-based services, other than nursing care, as defined
4 5 by this chapter and departmental rule, are provided. For the
4 6 purposes of this definition, the home and community-based
4 7 services to be provided are limited to the type included under
4 8 the medical assistance program provided pursuant to chapter
4 9 249A, are subject to cost limitations established by the
4 10 department of human services under the medical assistance
4 11 program, and except as otherwise provided by the department of
4 12 ~~inspections and appeals~~ public health with the concurrence of
4 13 the department of human services, are limited in capacity to
4 14 the number of licensed residential care facilities and the
4 15 number of licensed residential care facility beds in the state
4 16 as of December 1, 2003.

4 17 Sec. 11. Section 135C.4, Code 2009, is amended to read as
4 18 follows:

4 19 135C.4 RESIDENTIAL CARE FACILITIES.

4 20 Each facility licensed as a residential care facility shall
4 21 provide an organized continuous twenty-four-hour program of
4 22 care commensurate with the needs of the residents of the home
4 23 and under the immediate direction of a person approved and
4 24 certified by the department whose combined training and
4 25 supervised experience is such as to ensure adequate and
4 26 competent care. All admissions to residential care facilities
4 27 shall be based on an order written by a physician certifying
4 28 that the individual being admitted does not require nursing
4 29 services or that the individual's need for nursing services

4 30 can be avoided if home and community-based services, other
4 31 than nursing care, as defined by this chapter and departmental
4 32 rule, are provided. For the purposes of this section, the
4 33 home and community-based services to be provided shall be
4 34 limited to the type included under the medical assistance
4 35 program provided pursuant to chapter 249A, shall be subject to
5 1 cost limitations established by the department of human
5 2 services under the medical assistance program, and except as
5 3 otherwise provided by the department of ~~inspections and~~
5 4 ~~appeals public health~~ with the concurrence of the department
5 5 of human services, shall be limited in capacity to the number
5 6 of licensed residential care facilities and the number of
5 7 licensed residential care facility beds in the state as of
5 8 December 1, 2003.

5 9 Sec. 12. Section 135C.19, subsection 3, Code 2009, is
5 10 amended to read as follows:

5 11 3. If the facility cited subsequently advises the
5 12 department of human services that the violation has been
5 13 corrected to the satisfaction of the department of ~~inspections~~
5 14 ~~and appeals public health~~, the department of human services
5 15 shall maintain this advisory in the same file with the copy of
5 16 the citation. The department of human services shall not
5 17 disseminate to the public any information regarding citations
5 18 issued by the department of ~~inspections and appeals public~~
5 19 ~~health~~, but shall forward or refer inquiries to the department
5 20 of ~~inspections and appeals public health~~.

5 21 Sec. 13. Section 135C.31A, Code 2009, is amended to read
5 22 as follows:

5 23 135C.31A ASSESSMENT OF RESIDENTS == PROGRAM ELIGIBILITY.
5 24 A health care facility receiving reimbursement through the
5 25 medical assistance program under chapter 249A shall assist the
5 26 Iowa department of veterans affairs in identifying, upon
5 27 admission of a resident, the resident's eligibility for
5 28 benefits through the United States department of veterans
5 29 affairs. The department of ~~inspections and appeals public~~
5 30 ~~health~~, in cooperation with the department of human services,
5 31 shall adopt rules to administer this section, including a
5 32 provision that ensures that if a resident is eligible for
5 33 benefits through the United States department of veterans
5 34 affairs or other third-party payor, the payor of last resort
5 35 for reimbursement to the health care facility is the medical
6 1 assistance program. The rules shall also require the health
6 2 care facility to request information from a resident or
6 3 resident's personal representative regarding the resident's
6 4 veteran status and to report to the Iowa department of
6 5 veterans affairs only the names of residents identified as
6 6 potential veterans along with the names of their spouses and
6 7 any dependents. Information reported by the health care
6 8 facility shall be verified by the Iowa department of veterans
6 9 affairs. This section shall not apply to the admission of an
6 10 individual to a state mental health institute for acute
6 11 psychiatric care or to the admission of an individual to the
6 12 Iowa veterans home.

6 13 Sec. 14. Section 135C.33, subsection 6, paragraph a, Code
6 14 2009, is amended to read as follows:

6 15 a. The department of ~~inspections and appeals public~~
6 16 ~~health~~, in conjunction with other departments and agencies of
6 17 state government involved with criminal history and abuse
6 18 registry information, shall establish a single contact
6 19 repository for facilities and other providers to have
6 20 electronic access to data to perform background checks for
6 21 purposes of employment, as required of the facilities and
6 22 other providers under this section.

6 23 Sec. 15. Section 135C.34, Code 2009, is amended to read as
6 24 follows:

6 25 135C.34 MEDICATION AIDE == CERTIFICATION.
6 26 The department of ~~inspections and appeals public health~~, in
6 27 cooperation with other appropriate agencies, shall establish a
6 28 procedure to allow a person who is certified as a medication
6 29 aide in another state to become certified in this state upon
6 30 completion and passage of both the certified nurse aide and
6 31 certified medication aide challenge examinations, without
6 32 additional requirements for certification, including but not
6 33 limited to, required employment in this state prior to
6 34 certification. The department shall adopt rules pursuant to
6 35 chapter 17A to administer this section.

7 1 Sec. 16. Section 135J.1, subsection 2, Code 2009, is
7 2 amended to read as follows:

7 3 2. "Department" means the department of ~~inspections and~~
7 4 ~~appeals public health~~.

7 5 Sec. 17. Section 135J.2, Code 2009, is amended to read as

7 6 follows:

7 7 135J.2 LICENSES == FEES == CRITERIA.

7 8 1. A person or governmental unit, acting severally or
7 9 jointly with any other person may establish, conduct, or
7 10 maintain a hospice program in this state and receive a license
7 11 from the department after meeting the requirements of this
7 12 chapter. The application shall be on a form prescribed by the
7 13 department and shall require information the department deems
7 14 necessary. Nothing in this chapter shall prohibit a person or
7 15 governmental unit from establishing, conducting, or
7 16 maintaining a hospice program without a license. Each
7 17 application for license shall be accompanied by a
7 18 nonrefundable biennial license fee determined by the
7 19 department.

7 20 2. The hospice program shall meet the criteria pursuant to
7 21 section 135J.3 before a license is issued. The department ~~of~~
7 22 ~~inspections and appeals~~ is responsible to provide the
7 23 necessary personnel to inspect the hospice program, the home
7 24 care and inpatient care provided and the hospital or facility
7 25 used by the hospice to determine if the hospice complies with
7 26 necessary standards before a license is issued. Hospices that
7 27 are certified as Medicare hospice providers by the department
7 28 ~~of inspections and appeals~~ or are accredited as hospices by
7 29 the joint commission on the accreditation of health care
7 30 organizations, shall be licensed without inspection by the
7 31 department ~~of inspections and appeals~~.

7 32 Sec. 18. Section 135J.4, Code 2009, is amended to read as
7 33 follows:

7 34 135J.4 INSPECTION.

7 35 The department ~~of inspections and appeals~~ shall make or be
8 1 responsible for inspections of the hospice program, the home
8 2 care and the inpatient care provided in the hospice program,
8 3 and the hospital or facility before a license is issued. The
8 4 department ~~of inspections and appeals~~ shall inspect the
8 5 hospice program periodically after initial inspection.

8 6 Sec. 19. Section 142C.16, subsection 1, paragraph j, Code
8 7 2009, is amended by striking the paragraph.

8 8 Sec. 20. Section 155A.13, subsection 4, Code 2009, is
8 9 amended to read as follows:

8 10 4. a. The board shall adopt rules for the issuance of a
8 11 hospital pharmacy license to a hospital which provides
8 12 pharmacy services for its own use. The rules shall:

8 13 a. (1) Recognize the special needs and circumstances of
8 14 hospital pharmacies.

8 15 b. (2) Give due consideration to the scope of pharmacy
8 16 services that the hospital's medical staff and governing board
8 17 elect to provide for the hospital's own use.

8 18 c. (3) Consider the size, location, personnel, and
8 19 financial needs of the hospital.

8 20 d. (4) Give recognition to the standards of the joint
8 21 commission on the accreditation of health care organizations
8 22 and the American osteopathic association and to the conditions
8 23 of participation under Medicare.

8 24 b. To the maximum extent possible, the board shall
8 25 coordinate the rules with the standards and conditions
8 26 described in paragraph ~~"d"~~ "a", subparagraph (4) and shall
8 27 coordinate its inspections of hospital pharmacies with the
8 28 Medicare surveys of the department of ~~inspections and appeals~~
8 29 public health and with the board's inspections with respect to
8 30 controlled substances conducted under contract with the
8 31 federal government.

8 32 c. A hospital which provides pharmacy services by
8 33 contracting with a licensed pharmacy is not required to obtain
8 34 a hospital pharmacy license or a general pharmacy license.

8 35 Sec. 21. Section 155A.15, subsection 2, paragraph d, Code
9 1 2009, is amended to read as follows:

9 2 d. (1) Delivered without legal authorization prescription
9 3 drugs or devices to a person other than one of the following:

9 4 (1) (a) A pharmacy licensed by the board.

9 5 (2) (b) A practitioner.

9 6 (3) (c) A person who procures prescription drugs or
9 7 devices for the purpose of lawful research, teaching, or
9 8 testing, and not for resale.

9 9 (4) (d) A manufacturer or wholesaler licensed by the
9 10 board.

9 11 (2) However, this chapter does not prohibit a pharmacy
9 12 from furnishing a prescription drug or device to a licensed
9 13 health care facility for storage in secured emergency
9 14 pharmaceutical supplies containers maintained within the
9 15 facility in accordance with rules of the department of
9 16 ~~inspections and appeals~~ public health and rules of the board.

9 17 Sec. 22. Section 225C.4, subsection 1, paragraph r, Code
9 18 2009, is amended to read as follows:
9 19 r. In cooperation with the Iowa department of public
9 20 health, recommend minimum standards for the maintenance and
9 21 operation of public or private facilities offering disability
9 22 services, which are not subject to licensure by the
9 23 department, the department of public health, or the department
9 24 of inspections and appeals.
9 25 Sec. 23. Section 225C.6, subsection 1, paragraph e, Code
9 26 2009, is amended to read as follows:
9 27 e. Unless another governmental body sets standards for a
9 28 service available to persons with disabilities, adopt state
9 29 standards for that service. The commission shall provide that
9 30 a service provider's compliance with standards for a service
9 31 set by a nationally recognized body shall be deemed to be in
9 32 compliance with the state standards adopted by the commission
9 33 for that service. The commission shall adopt state standards
9 34 for those residential and community-based providers of
9 35 services to persons with mental illness or developmental
10 1 disabilities that are not otherwise subject to licensure by
10 2 the department of human services, the department of public
10 3 health, or department of inspections and appeals, including
10 4 but not limited to remedial services payable under the medical
10 5 assistance program and other services payable from funds
10 6 credited to a county mental health, mental retardation, and
10 7 developmental disabilities services fund created in section
10 8 331.424A. In addition, the commission shall review the
10 9 licensing standards used by the department of human services,
10 10 the department of public health, or department of inspections
10 11 and appeals for those facilities providing services to persons
10 12 with mental illness or developmental disabilities.
10 13 Sec. 24. Section 231.58, subsection 1, paragraph d, Code
10 14 2009, is amended by striking the paragraph.
10 15 Sec. 25. Section 231B.1, subsection 1, Code 2009, is
10 16 amended to read as follows:
10 17 1. "Department" means the department of ~~inspections and~~
10 18 ~~appeals public health~~ or the department's designee.
10 19 Sec. 26. Section 231C.2, subsection 3, Code 2009, is
10 20 amended to read as follows:
10 21 3. "Department" means the department of ~~inspections and~~
10 22 ~~appeals public health~~ or the department's designee.
10 23 Sec. 27. Section 231D.1, subsection 3, Code 2009, is
10 24 amended to read as follows:
10 25 3. "Department" means the department of ~~inspections and~~
10 26 ~~appeals public health~~.
10 27 Sec. 28. Section 235A.16, subsection 2, paragraph b, Code
10 28 2009, is amended to read as follows:
10 29 b. The department of ~~inspections and appeals public health~~
10 30 may provide access to the single contact repository
10 31 established under section 135C.33, subsection 6, for criminal
10 32 and abuse history checks made by those employers, agencies,
10 33 and other persons that are authorized access to child abuse
10 34 information under section 235A.15 and are required by law to
10 35 perform such checks.
11 1 Sec. 29. Section 235B.1, subsection 4, paragraph a,
11 2 subparagraph (1), Code 2009, is amended to read as follows:
11 3 (1) Advise the director of human services, the director of
11 4 elder affairs, ~~the director of inspections and appeals~~, the
11 5 director of public health, the director of the department of
11 6 corrections, and the director of human rights regarding
11 7 dependent adult abuse.
11 8 Sec. 30. Section 235B.1, subsection 4, paragraph b,
11 9 subparagraph (1), Code 2009, is amended to read as follows:
11 10 (1) The advisory council shall consist of twelve members.
11 11 Six members shall be appointed by and serve at the pleasure of
11 12 the governor. Four of the members appointed shall be
11 13 appointed on the basis of knowledge and skill related to
11 14 expertise in the area of dependent adult abuse including
11 15 professionals practicing in the disciplines of medicine,
11 16 public health, mental health, long-term care, social work,
11 17 law, and law enforcement. Two of the members appointed shall
11 18 be members of the general public with an interest in the area
11 19 of dependent adult abuse and two of the members appointed
11 20 shall be members of the Iowa caregivers association. In
11 21 addition, the membership of the council shall include the
11 22 director or the director's designee of the department of human
11 23 services, the department of elder affairs, and the Iowa
11 24 department of public health, ~~and the department of inspections~~
11 25 ~~and appeals~~.
11 26 Sec. 31. Section 235B.3, subsection 1, paragraph a, Code
11 27 2009, is amended to read as follows:

11 28 a. The department shall receive dependent adult abuse
11 29 reports and shall collect, maintain, and disseminate the
11 30 reports by establishing a central registry for dependent adult
11 31 abuse information. The department shall evaluate the reports
11 32 expeditiously. However, the department of ~~inspections and~~
~~11 33 appeals public health~~ is solely responsible for the evaluation
11 34 and disposition of dependent adult abuse cases within
11 35 facilities and programs pursuant to chapter 235E and shall
12 1 inform the department of human services of such evaluations
12 2 and dispositions pursuant to section 235E.2.

12 3 Sec. 32. Section 235B.3, subsection 9, paragraph a, Code
12 4 2009, is amended to read as follows:

12 5 a. If, upon completion of the evaluation or upon referral
12 6 from the department of ~~inspections and appeals~~ public health,
12 7 the department determines that the best interests of the
12 8 dependent adult require court action, the department shall
12 9 initiate action for the appointment of a guardian or
12 10 conservator or for admission or commitment to an appropriate
12 11 institution or facility pursuant to the applicable procedures
12 12 under chapter 125, 222, 229, or 633, or shall pursue other
12 13 remedies provided by law. The appropriate county attorney
12 14 shall assist the department in the preparation of the
12 15 necessary papers to initiate the action and shall appear and
12 16 represent the department at all district court proceedings.

12 17 Sec. 33. Section 235B.3, subsection 13, Code 2009, is
12 18 amended to read as follows:

12 19 13. The department of ~~inspections and appeals~~ public
~~12 20 health~~ shall adopt rules which require facilities or programs
12 21 to separate an alleged dependent adult abuser from a victim
12 22 following an allegation of perpetration of abuse and prior to
12 23 the completion of an investigation of the allegation.

12 24 Sec. 34. Section 235B.5, subsection 5, Code 2009, is
12 25 amended to read as follows:

12 26 5. An oral report of suspected dependent adult abuse
12 27 initially made to the central registry regarding a facility or
12 28 program as defined in section 235E.1 shall be transmitted by
12 29 the department to the department of ~~inspections and appeals~~
12 30 public health on the first working day following the
12 31 submitting of the report.

12 32 Sec. 35. Section 235B.16, subsections 2 and 4, Code 2009,
12 33 are amended to read as follows:

12 34 2. The department, in cooperation with the department of
12 35 elder affairs and the department of ~~inspections and appeals~~
13 1 public health, shall institute a program of education and
13 2 training for persons, including members of provider groups and
13 3 family members, who may come in contact with dependent adult
13 4 abuse. The program shall include but is not limited to
13 5 instruction regarding recognition of dependent adult abuse and
13 6 the procedure for the reporting of suspected abuse.

13 7 4. The department of ~~inspections and appeals~~ public health
13 8 shall provide training to investigators regarding the
13 9 collection and preservation of evidence in the case of
13 10 suspected dependent adult abuse.

13 11 Sec. 36. Section 235B.16, subsection 5, paragraph d,
13 12 subparagraph (3), Code 2009, is amended to read as follows:

13 13 (3) A training program using such an approved curriculum
13 14 offered by the department of human services, the department of
13 15 elder affairs, the department of ~~inspections and appeals~~
13 16 public health, the Iowa law enforcement academy, or a similar
13 17 public agency.

13 18 Sec. 37. Section 235E.1, subsection 3, Code 2009, is
13 19 amended to read as follows:

13 20 3. "Department" means the department of ~~inspections and~~
~~13 21 appeals public health~~.

13 22 Sec. 38. Section 235E.2, subsection 5, Code 2009, is
13 23 amended to read as follows:

13 24 5. Any other person who believes that a dependent adult
13 25 has suffered dependent adult abuse may report the suspected
13 26 dependent adult abuse to the department of ~~inspections and~~
~~13 27 appeals public health~~. The department of ~~inspections and~~
~~13 28 appeals public health~~ shall transfer any reports received of
13 29 dependent adult abuse in the community to the department of
13 30 human services. The department of human services shall
13 31 transfer any reports received of dependent adult abuse in
13 32 facilities or programs to the department of ~~inspections and~~
~~13 33 appeals public health~~.

13 34 Sec. 39. Section 423.3, subsection 18, paragraph a, Code
13 35 2009, is amended to read as follows:

14 1 a. Residential care facilities and intermediate care
14 2 facilities for persons with mental retardation and residential
14 3 care facilities for persons with mental illness licensed by

14 4 the department of ~~inspections and appeals~~ public health under
14 5 chapter 135C.

14 6 Sec. 40. Sections 10A.701 and 10A.702, Code 2009, are
14 7 repealed.

14 8 Sec. 41. DIRECTIVE TO CODE EDITOR. The Code editor shall
14 9 codify section 135.90, as enacted in this Act, as a new
14 10 division of chapter 135, the health facilities division.

14 11 EXPLANATION

14 12 This bill transfers the responsibility for licensing,
14 13 certification, and inspections and related activities for
14 14 hospitals, health care facilities, hospice programs, assisted
14 15 living programs, adult day services, and elder group homes
14 16 from the department of inspections and appeals to the
14 17 department of public health. The bill establishes a health
14 18 facilities division in the department of public health with
14 19 the same duties as were previously assigned to the health
14 20 facilities division of the department of inspections and
14 21 appeals. The bill makes conforming changes throughout the
14 22 Code to reflect this transfer of responsibility.

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